

AMENDED IN ASSEMBLY APRIL 16, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 696**

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**Introduced by Assembly Member Hagman**  
**(Coauthors: Assembly Members Bill Berryhill, DeVore, and Jeffries)**  
**(Coauthor: Senator Runner)**

February 26, 2009

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An act to add Section 21166.5 to the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 696, as amended, Hagman. California Environmental Quality Act: arbitration.

(1) The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also generally requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA provides some exemptions from its requirements.

This bill would allow an applicant for a project *and the lead agency*, at the time of application, to opt to resolve all disputes ~~with the lead agency~~ arising out of a subsequent environmental impact report for that project before an arbitrator, in lieu of retaining the option to file an

action or proceeding arising out of those disputes before a court. If an applicant ~~so opts and the lead agency opt to do so~~, the bill would require the applicant and the lead agency, ~~at that time~~, to agree to an arbitrator; ~~thereby imposing a state-mandated local program. The bill would require any resulting arbitration to be binding on both the applicant and the lead agency and would require the arbitrator to resolve the dispute within 90 days of the request for arbitration.~~

(2) ~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 21166.5 is added to the Public Resources  
2 Code, to read:

3 21166.5. (a) Notwithstanding any other provision of law, an  
4 applicant for a project *and the lead agency* may, at the time of  
5 application, opt to resolve all disputes ~~with the lead agency~~ arising  
6 out of a subsequent environmental impact report for that project  
7 before an arbitrator, in lieu of retaining the option to file an action  
8 or proceeding arising out of those disputes before a court.

9 (b) If an applicant ~~opts and the lead agency opt~~ to resolve  
10 disputes before an arbitrator pursuant to subdivision (a), the  
11 applicant and lead agency shall agree to an arbitrator ~~at the time~~  
12 ~~the applicant makes that initial decision pursuant to subdivision~~  
13 ~~(a).~~

14 (c) The arbitration shall be binding on both the applicant and  
15 the lead agency and the arbitrator shall have 90 days from the date  
16 of the request for arbitration to resolve the dispute.

17 SEC. 2. ~~No reimbursement is required by this act pursuant to~~  
18 ~~Section 6 of Article XIII B of the California Constitution because~~  
19 ~~a local agency or school district has the authority to levy service~~  
20 ~~charges, fees, or assessments sufficient to pay for the program or~~

1 level of service mandated by this act, within the meaning of Section  
2 17556 of the Government Code.

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